

receive an equitable share of appropriations made by the Congress, based upon formula components specified under subpart D of this part. IHBG recipients must have the administrative capacity to undertake the affordable housing activities proposed, including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement.

**§ 1000.8 May provisions of these regulations be waived?**

Yes. Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this part and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

**§ 1000.10 What definitions apply in these regulations?**

Except as noted in a particular subpart, the following definitions apply in this part:

(a) The terms “*Adjusted income*,” “*Affordable housing*,” “*Drug-related criminal activity*,” “*Elderly families and near-elderly families*,” “*Elderly person*,” “*Grant beneficiary*,” “*Indian*,” “*Indian housing plan (IHP)*,” “*Indian tribe*,” “*Low-income family*,” “*Near-elderly persons*,” “*Nonprofit*,” “*Recipient*,” “*Secretary*,” “*State*,” and “*Tribally designated housing entity (TDHE)*” are defined in section 4 of NAHASDA.

(b) In addition to the definitions set forth in paragraph (a) of this section, the following definitions apply to this part:

*Affordable housing activities* are those activities identified in section 202 of NAHASDA.

*Annual Contributions Contract (ACC)* means a contract under the 1937 Act between HUD and an IHA containing the terms and conditions under which HUD assists the IHA in providing decent, safe, and sanitary housing for low-income families.

*Annual income* has one of the following meanings, as determined by the Indian tribe:

(1) “*Annual income*” as defined for HUD’s Section 8 programs in 24 CFR part 5, subpart F (except when deter-

mining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner’s principal residence may be excluded from the calculation of Net Family assets); or

(2) Annual income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(i) Wages, salaries, tips, commissions, etc.;

(ii) Self-employment income;

(iii) Farm self-employment income;

(iv) Interest, dividends, net rental income, or income from estates or trusts;

(v) Social security or railroad retirement;

(vi) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;

(vii) Retirement, survivor, or disability pensions; and

(viii) Any other sources of income received regularly, including Veterans’ (VA) payments, unemployment compensation, and alimony; or

(3) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

*Assistant Secretary* means the Assistant Secretary for Public and Indian Housing.

*Department or HUD* means the Department of Housing and Urban Development.

*Family* includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family, a single person, as determined by the Indian tribe.

*Homebuyer payment* means the payment of a family purchasing a home pursuant to a lease purchase agreement.

*Homeless family* means a family who is without safe, sanitary and affordable housing even though it may have temporary shelter provided by the community, or a family who is homeless as determined by the Indian tribe.

*IHBG* means Indian Housing Block Grant.

*Income* means annual income as defined in this subpart.

*Indian Area* means the area within which an Indian tribe operates affordable housing programs or the area in which a TDHE is authorized by one or more Indian tribes to operate affordable housing programs. Whenever the term “jurisdiction” is used in NAHASDA it shall mean “Indian Area” except where specific reference is made to the jurisdiction of a court.

*Indian Housing Authority (IHA)* means an entity that:

(1) Is authorized to engage or assist in the development or operation of low-income housing for Indians under the 1937 Act; and

(2) Is established:

(i) By exercise of the power of self government of an Indian tribe independent of state law; or

(ii) By operation of state law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

*Median income* for an Indian area is the greater of:

(1) The median income for the counties, previous counties, or their equivalent in which the Indian area is located; or

(2) The median income for the United States.

*NAHASDA* means the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

*1937 Act* means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

*Office of Native American Programs (ONAP)* means the office of HUD which has been delegated authority to administer programs under this part. An “Area ONAP” is an ONAP field office.

*Person with Disabilities* means a person who —

(1) Has a disability as defined in section 223 of the Social Security Act;

(2) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act;

(3) Has a physical, mental, or emotional impairment which—

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions.

(4) The term “person with disabilities” includes persons who have the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.

(5) Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this part, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with Indian tribes and appropriate Federal agencies to implement this paragraph.

(6) For purposes of this definition, the term “*physical, mental or emotional impairment*” includes, but is not limited to:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(iii) The term “*physical, mental, or emotional impairment*” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.

#### **§ 1000.12 What nondiscrimination requirements are applicable?**

(a) The requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and HUD’s implementing regulations in 24 CFR part 146.

(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD’s regulations at 24 CFR part 8 apply.

(c) The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301–1303), applies to Federally